

**WEST VALLEY CITY
BOARD OF ADJUSTMENT
MINUTES**

February 5, 2014

This meeting was called to order at 6:00 p.m. by Chairperson Necia Christensen at 3600 Constitution Boulevard, West Valley City, Utah.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Russell Moore, Scott Spendlove, Necia Christensen, William Whetstone

Those Absent:

Sandy Naegle

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Lehman and Nichole Camac

WEST VALLEY CITY LEGAL DEPARTMENT

Brandon Hill, Assistant City Attorney

AUDIENCE:

Approximately two (2) persons were in the audience.

VARIANCES

B-1-2014

Barney Trucking – Variance

6381 West 2100 South Frontage Road

M Zone

REQUEST:

Steve Hansen, representing Barney Trucking, has filed a request with the Board of Adjustment seeking two variances from the West Valley City Land Use Code. The first variance is from Section 7-6-1107(3). This section requires that curb cuts shall not be located closer than 20 feet to a side property line. The applicant is requesting a 20 foot variance to allow truck access without a setback. The second variance is from Section 7-9-108(4). This section requires that the maximum driveway width be 50 feet. The applicant is requesting variances of 29 and 39 feet for two separate access points for this property.

BACKGROUND:

WEST VALLEY CITY GENERAL PLAN recommends manufacturing land uses.

- ☐ The subject property is known as parcel Numbers 14-23-100-003, 14-23-100-004 and 14-23-100-007. This property is located in the manufacturing zone and was previously used as a truck stop.
- ☐ Barney Trucking has approached the City about using this site as a trucking terminal to support their business operations in Northern Utah and the surrounding region. At the present time, this site lacks any formal improvements along the 2100 South frontage road. With a new pending development, City requirements regarding access, numbers of curb cuts, landscaping etc. will be required.
- ☐ The requirements outlined in the City's zoning ordinance, coupled with the angled property, along with previous right-of-way dedication, make these requirements difficult to achieve. After working with staff for a future conditional use application, the applicant has met all of the City's requirements with the exception of the two variances noted in this application.
- ☐ The first variance request is related to Section 7-6-1107(3) which requires that curb cuts be located no closer than 20 feet to a side property line. The west access will be used as the primary access into this property. The width of this access point is restricted by the turning radius of vehicles coming from the east and west along 2100 South. There are two reasons for this:
 1. Trucks travelling eastbound are unable to negotiate a right turn due to the 60 degree angle of 2100 South.

2. Trucks travelling westbound are unable to negotiate a left turn due to the location of the existing building. (Dedication along 2100 South has lessened the building setback to the right-of-way).

- ☐ The second variance request is related to Section 7-9-108(4) which requires that the maximum driveway width be 50 feet. There are two locations that will require an increase in driveway width to accommodate turning movements. The west access (or primary entrance to the site) and the middle access will require variances of 29 and 39 feet respectively.
- ☐ The reasoning for the second variance is that the primary access point needs to be as large as possible due to the existing building location. As already mentioned, the 2100 South frontage road has been widened over the years. As such, the building sits closer to the street than it did when this site originally developed. Trucks are not able to negotiate left turns in to the site, due to the buildings proximity to the right-of-way. The middle access point needs to be larger due to an existing truck scale located in the middle of the drive aisle. In order to navigate on either side of this scale, the driveway width needs to be increased.
- ☐ Staff discussed the variance criteria with the applicant and asked them to prepare responses in relationship to each request. The applicant believes that due to the angle of 2100 South, approximately 60 degrees, and various road dedications over the years, the turning movements of large trucks are not able to negotiate ingress or egress to this site.
- ☐ Should the Board of Adjustment approve the variance, the applicant will be required to submit a conditional use application for Planning Commission consideration.

☐ **ORDINANCE SUMMARY:**

Section 7-6-1107(3) requires that curb cuts shall not be located closer than 20 feet to a side property line. Section 7-9-108(4) requires that the maximum driveway width be 50 feet.

The West Valley City Land Use Development and Management Act Section 7-18-107 outlines the standards or conditions for approving a variance. The Board of Adjustment may grant a variance only if:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
3. Granting the variance is essential to the enjoyment of a substantial property right

possessed by other property in the same zoning district.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice done.

According to Williams, American Land Planning Law (Volume 5, Criteria for the Validity of Variances, pages 131 and 133 et.seq.) there is a presumption against granting a variance and it can only be granted if each of the standards are met.

In Wells v. Board of Adjustment of Salt Lake City, the Utah Court of Appeals held that a Board's decision to grant a variance would be illegal if the required statutory findings were not made.

Steve Lehman presented the application.

Discussion: Scott Spendlove stated that this is City imposed and questioned if there is a grandfather exception. Steve replied that if more than \$50,000 is spent toward improvements on the site, or a new use, there must be City ordinance improvements as well. He added that this is a new business and a new owner so we want to ensure everything is brought up to standards. Mr. Spendlove asked if other lots in the area are similar. Steve replied that most don't have formal improvements because businesses in this area existed before West Valley incorporated. William Whetstone asked if the property to west will be impacted. Steve replied that trucks won't cross the adjacent property. Russell Moore asked if the State would need to be involved due to the proximity of the 201 corridor. Steve replied no because it is directly off the frontage road which is in the City's jurisdiction. Mr. Spendlove asked if the applicant will need to get conditional use approval from the Planning Commission. Steve replied yes and stated that this business is a conditional use in the manufacturing zone. He added that the Planning Commission will review overall site improvements that include landscaping, building, etc. Brandon Hill indicated that it is tentatively scheduled for the Planning Commission public hearing on February 12, 2014.

Applicant

Tyler Barney
528 E Rose Bull Ct.

Tyler Barney

Mr. Barney stated that this company was founded by his grandfather in the 1940's and has become the largest trucking company of its type over the years. He stated that Barney Trucking is reputable and business is taken very seriously. He indicated that growth is important and he feels this is a great location to expand to. Mr. Barney stated that this area has been used for trucking for many years. He stated that this site will create jobs and may eventually expand into the headquarters of Barney Trucking. Mr. Barney stated the he wants to ensure the site looks great and conforms with the ordinance as much as possible but there are a few challenging factors that variances are being requested for.

Applicant

Steve Hanson
3223 Hunters Moons Place

Steve Hanson

Steve Hanson stated that he developed a site plan and traffic study for this specific site. He displayed a picture of a typical truck and stated that it would be almost impossible to maneuver the truck into the site due to the layout of the frontage road. Mr. Hanson indicated that the West entrance will be the primary entrance to the site and trucks will have the ability to enter the fuel stop/maintenance area, the scale, or the parking stalls. Mr. Barney added that the fuel tanks had to be removed prior to the purchase of the property and he is still unsure whether these will be reinstalled in the future. Mr. Hanson stated that all ordinances have been met with the exception of the two variances being requested. He stated that it is essential for trucks to be able to turn into the west access and adding a setback would prevent this. He added that there is also an easement in this location for the rear building. He stated that decreasing the number of access points would cause traffic on the frontage road and congestion on the property. He stated that the center access also needs a variance for this reason.

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.

Mr. Hanson stated that literal enforcement of the zoning ordinance at the middle access would make the existing scale and proposed maintenance/ future fuel station parking next to the building unusable together. A 50 foot entrance would need to be located for either the scale or maintenance/ future fuel station parking, which would render the other unusable due to the existing landscaping and the ability of the trucks to make sharp turns. Literal enforcement of the zoning ordinance at the west access would make this access unusable for trucks entering the site from the west, as they need the larger access length due to the required turning angle into the property.

For the second variance request, Mr. Hanson stated that the existing property includes access to the property along the entire frontage road. It also includes pavement extending to the west boundary of the property. The existing property also includes a 30 foot right of way easement recorded on Feb. 1, 2001 to provide access to the parcel and building located at the southwest corner of the subject property. Complying with the ordinance would require the owner to dissolve or move the existing easement. Keeping this right of way where it is at is the best location such that vehicle traffic going to the building in the back does not affect the flow of traffic throughout the rest of the site. Future owners of the back parcel will require a right of way somewhere through the terminal site to get to the building in the back corner.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.

Mr. Hanson stated that the frontage road to this property is located at an approximate angle of 60 degrees to the accesses of the property, which are parallel to the property line. This

requires that trucks heading in an easterly direction turning into the site must turn at an angle smaller than 90 degrees. This requires a larger turning radius and is unique to this existing property. The existing scale and maintenance parking at the site have been used for years in their current location. It makes sense to keep these in their current location for traffic flow through the site and not to disrupt frontage road traffic due to limited access out of the site.

For the second variance, Mr. Hanson stated that the special circumstances associated with this property are that it is an existing site with recorded easements and right-of-ways on the property. The subject property is also used as access to the adjacent parcel in the southwest of the subject property. The southwest parcel is currently owned by Barney Trucking but may be owned by someone else in the future.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.

Mr. Hanson stated that most other properties in the manufacturing zone of West Valley City are located perpendicular, or at a 90 degree angle to their frontage roads. These other properties do not have the same turning radius constraint as this site. This is a constraint that will remain with this site, independent of owner. The fact that this is an existing site creates these and other limitations.

For the second variance, Mr. Hanson stated that granting this variance allows the property owner to keep the existing right of way for the building in the back and allows for smooth traffic flow into the existing site.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

Mr. Hanson stated that the granting of this variance will allow Barney trucking to use the site as it has been zoned. This variance does not adversely affect the General plan and meets the intent of the parking ordinances that states, "Entrances and exits for parking facilities shall be designed to reduce traffic congestion on public streets and minimize conflicts with neighboring uses." The specific site plan has been designed to allow for as much free movement of trucks on the site as possible while meeting the West Valley city frontage road zoning requirements where possible.

For the second variance, Mr. Hanson stated that the granting of this variance does not adversely affect the General Plan and allows for reduced traffic and congestion on the frontage road. Also, the nearest access on the adjacent property is located well over 40 feet away from the adjacent property owner access at approximately 150 feet. This access point does not adversely affect the neighboring property in any way and has been used as an access point for several years.

5. The spirit of the zoning ordinance is observed and substantial justice done.

Mr. Hanson stated that the spirit of the ordinance is being upheld because the site is being modified to meet all West Valley City ordinances where possible. The proposed improvements will add value to the property and provide an improved look for the frontage

of the property from the high-image arterial highway.

For the second variance, Mr. Hanson stated that the spirit of the ordinance is observed by granting this variance as well as equality to the land owner and future land owners of the subject property and adjacent properties. Granting this variance complies with the purpose of, “reducing traffic congestion on public streets and minimize conflicts with neighboring uses.”

Discussion: Tyler Barney stated that he hopes the Board can see the challenges that exist on the site. He indicated that the angle of the property presents difficulty for trucks. He stated that if the entrance to the West were removed they couldn’t access the site because there wouldn’t be enough room for large trucks to maneuver.

Mr. Spendlove asked how this property compares to others surrounding it. Brandon replied that the shape of the property is not necessarily the reasoning behind the variance. He indicated that the applicant is here to make an existing site work for a new company that plans to use the site similar to what it has been used as historically. Brandon stated that the applicant has gone over the \$50,000 threshold and new land use requirements have also been introduced that the applicant must come into compliance with. Necia Christensen stated that other properties in the M zone are typically located next to a perpendicular street. Steve agreed and added that the road is at a challenging angle which does create a unique circumstance.

There being no further discussion regarding this application, Chairperson Christensen called for a motion.

Mr. Moore moved for approval.

Mr. Whetstone seconded the motion.

Discussion: Ms. Christensen stated that she feels comfortable eliminating the setback on the west access. She stated that it is important for trucks to be able to maneuver onto the site here and also important that they can do it safely. Ms. Christensen added that she is also comfortable with the increase in width of the accesses as well. She indicated that the property used to have a lot more space but the proximity of the building to the frontage road as well as the curved angle of the road itself lend to difficult usability. Mr. Spendlove stated that he is unclear what the substantial hardship is. He indicated that this site doesn’t have to be used as a trucking company and another business may be able to function here without needing variances. Ms. Christensen replied that this has always been used as a trucking company in the past and it is surrounded by similar uses. Russ Moore agreed and added that the hardship is caused by the City’s requirement to bring the property into compliance. He indicated that if the use was continuous and no major changes were made this would not have been an issue. Mr. Moore stated that the angle of the lot in relation to the frontage road creates a problem for trucks turning into the site. He added that other properties in the area are trucking businesses so the right exists in the surrounding community. Mr. Moore stated that this use will not affect the General plan since this type of use is anticipated for the area. He added that substantial justice would be done by allowing the applicant to use a lot that has been abandoned. Ms. Christensen agreed and stated that there is great benefit in the property being used and maintained. Mr. Spendlove stated that economic criteria cannot be used to validate a

variance. Brandon Hill agreed and added that the hardship must be a denial of some property right that doesn't have to do with money. Ms. Christensen stated that trucking businesses are allowed in the M zone but one could not function on this site due to the restraints presented by the applicant. She stated that a new owner must request permission to operate on the site even though it has always been used for trucking companies.

A roll call was taken.

Mr. Moore	Yes
Mr. Spendlove	Yes
Mr. Whetstone	Yes
Chairperson Christensen	Yes

Motion Carries - B-1-2014– Unanimous Vote

OTHER

The minutes from **July 3, 2013** were **approved**.

The minutes from **November 6, 2013** were **approved**.

There being no further business the meeting adjourned at 6:55 p.m.

Nichole Camac, Administrative Assistant